

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

RANDOLPH P. BROWN,

Defendant.

CASE NO. CR21-058RSM

ORDER DENYING MOTION FOR
REVOCATION OF DETENTION ORDER

This matter comes before the Court on Defendant Brown's Motion for Revocation of Detention Order. Dkt. #231. The Court has determined that oral argument is unnecessary.

On March 31, 2021, the government secured an indictment charging the Defendant and three others with Conspiracy to Distribute Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846. Dkt. #1. The Defendant was also charged with Possession of Controlled Substances with Intent to Distribute, Possession of a Firearm in Furtherance of a Drug Trafficking Crime, and Felon in Possession of a Firearm. *Id.*

The Defendant was arrested on April 7, 2021, and made his Initial Appearance the same day. Dkt. #18. The government sought detention, invoking the presumption of detention applicable in drug trafficking cases. Dkt. #17. At the detention hearing held a few days later,

1 the Honorable Paula L. McCandlis released the defendant on an appearance bond. Dkt. #39. The
2 conditions of the bond included location monitoring and a curfew. *Id.*

3 Over the next 18 months, the defendant repeatedly violated the conditions of his bond.
4 This resulted in the filing of nine different violation reports. These violations included repeated
5 alcohol and drug use.

6 On September 15, 2022, the Defendant came before the Magistrate Judge¹ to enter pleas
7 of guilty and to address the most recent bond violation report. Dkt. #226. Defendant admitted
8 his bond violations. *Id.* The Government argued for detention, joined by U.S. Probation. The
9 pretrial services officer advised the Magistrate Judge that, in addition to the violations, there were
10 issues with the defendant's truthfulness with the officer and with the Defendant properly charging
11 his location monitor—both of which had been addressed orally at previous hearings. The
12 Magistrate Judge then observed that a different standard of release applied to defendants who
13 had pled guilty. The Magistrate Judge also determined that the conditions in the bond were
14 insufficient to secure the safety of the community and, even if there were, the Defendant was
15 unlikely to abide by such conditions; the Magistrate Judge revoked the bond. Dkts. #226 and
16 #230. The instant Motion followed.

17 An appeal of a Magistrate Judge's detention order is governed by 18 U.S.C. § 3145(b),
18 which provides that "[i]f a person is ordered detained by a Magistrate Judge... the person may
19 file, with the court having original jurisdiction over the offense, a motion for revocation or
20 amendment of the order." The District Court judge with original jurisdiction then reviews de
21 novo the Magistrate Judge's detention order. *See United States v. Koenig*, 912 F.2d 1990, 1192
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26 ¹ The Government repeatedly refers to Magistrate Judge Vaughan as "the magistrate" in its brief. Congress adopted
27 the title of "United States Magistrate Judge" several decades ago. Federal Courts Study Implementation Act of 1990,
Pub. L. No. 101-650, § 321 (1990). In future filings, the Government is advised to use the appropriate title:
Magistrate Judge.

1 (9th Cir. 1990). In ruling on a motion for pretrial detention, the Court must answer the same
2 questions as the Magistrate Judge; whether any condition or combination of conditions will
3 reasonably assure the appearance of the defendant as required, and the safety of any other person
4 and the community. 18 U.S.C. § 3142(f). The United States typically bears the burden of
5 showing that defendant poses a danger to the community by clear and convincing evidence, and
6 it bears the burden of showing that a defendant poses a flight risk by a preponderance of the
7 evidence. *United States v. Gebro*, 948 F.2d 1118, 1120 (9th Cir. 1991).

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9 The Bail Reform Act identifies four factors that a court should consider in analyzing a
10 detention motion: “(1) the nature and circumstances of the offense charged, including whether
11 the offense is a crime of violence . . . ; (2) the weight of the evidence against the person; (3) the
12 history and characteristics of the person, including [] the person’s character, physical and mental
13 condition, family ties, employment, financial resources, length of residence in the community,
14 community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and
15 record concerning appearance at court proceedings . . . ; and (4) the nature and seriousness of the
16 danger to any person or the community that would be posed by the person’s release.” 18 U.S.C.
17 § 3142(g).

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19 For a defendant *charged* with an offense for which the maximum term of imprisonment
20 under the Controlled Substances Act is ten years or more, there is a rebuttable presumption that
21 no condition or combination of conditions will reasonably secure the appearance of the defendant
22 and assure the safety of the community. 18 U.S.C. § 3142(e)(3)(A). However, once a defendant
23 has entered a plea of guilty, the standard is different. Post-conviction, 18 U.S.C. § 3143 governs
24 whether a defendant should be detained pending sentencing (or execution of sentence). That
25 statute provides, in pertinent part, that a defendant “shall” be detained pending imposition of
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1 sentence unless certain exceptions apply. 18 U.S.C. § 3143(a)(1). These exceptions include that
2 the applicable sentencing guideline does not encompass a term of imprisonment or “the judicial
3 officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger
4 to the safety of any other person or the community if released.” *Id.* However, if a defendant has
5 been convicted of a drug offense with a maximum sentence of ten years or more, different
6 exceptions apply. 18 U.S.C. § 3143(a)(2) (referencing 18 U.S.C. § 3142(f)(C), which applies to
7 “an offense for which a maximum term of imprisonment of ten years or more is prescribed in the
8 Controlled Substances Act (21 U.S.C. § 801 et seq.)”). In such a case, detention is required unless
9 (1) the Court finds there is a substantial likelihood that a motion for acquittal or new trial will be
10 granted (18 U.S.C. § 3143(a)(2)(A)(i)), or the government has recommended a sentence of no
11 imprisonment (18 U.S.C. § 3143(a)(2)(A)(ii)), and (2) the Court finds by clear and convincing
12 evidence that the defendant will not flee or pose a danger to the community (18 U.S.C. §
13 3143(a)(2)(B)).
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16 Based on the record before Judge Vaughn, the Court agrees with the Government that
17 detention is required. The Defendant was convicted of a drug offense with a maximum sentence
18 of 40 years. 21 U.S.C. § 841(a)(1), (b)(1)(B), 846; Dkts. #221 and #228. Therefore, the standard
19 set forth in 18 U.S.C. § 3143(a)(2) applies. None of the exceptions to the requirement of
20 detention set forth in that statute are present here. Even if detention were not required, the factors
21 normally considered would weigh against release given Defendants’ increased risk to the
22 community since the initial detention hearing and the possibly of flight given his issues with
23 location monitoring. The Defendant has not shown by clear and convincing evidence that he will
24 not flee and does not place the community at risk.
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1 Having reviewed the briefing for this Motion, along with the remainder of the record, the
2 Court hereby finds and ORDERS that Defendant Brown's Motion for Revocation of Detention
3 Order, Dkt. #231, is DENIED.

4 DATED this 13th day of October, 2022.

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7 RICARDO S. MARTINEZ
8 UNITED STATES DISTRICT JUDGE
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